HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 2940 (S/S) 2001
(Old no. 1911 of 1992)

Rajbeer Singh Sanjuwan S/o Umrao Singh Sajuwan,
Block Road, Chamba, P.O. Chamba,
District Tehri Garhwal. ----Petitioner.

Vs.

1. District Magistrate, Uttarkashi,
2. The Director of Statistics and Agriculture,
   Insurance, U.P. Lucknow. ----Respondents.

Sri Rakesh Thapaliyal, learned counsel for the petitioner.
Learned Standing Counsel for respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Rakesh Thapaliyal, learned counsel for the petitioner and learned Standing Counsel for respondents.

By means of this writ petition, the petitioner has challenged the order dated 02.01.1992 passed by the District Magistrate, Uttarkashi by which the services of the petitioner were terminated.

Contention of the petitioner is that he was appointed on the post of Junior Static Inspector in the pay-scale of 1200-2040. The appointment was against the clear vacancy, which came into existence account of the appointment of one Krishna Lal Tiwari in the Education Department. The appointment of the petitioner was purely on temporary basis and was liable to a be automatically terminated on regular appointment being made by Directorate Statistics & Agriculture in accordance with the Rules. In pursuance of the appointment order, the petitioner joined his duties. On 27.11.1991, the District Magistrate also issued a letter to the Director Statistics and Agriculture, Lucknow to accord approval to the appointment of the

petitioner. However, vide order dated 31.12.1991/ 02.01.1992, the District Magistrate has terminated the services of the petitioner. This is the order impugned which is under challenge in the present writ petition.

Submission of the petitioner is that he was appointed by the District Magistrate against the clear vacancy and there was a condition that the appointment will continue till a candidate selected by the Director Agriculture joins the post. since no person appointed by the Director Agriculture had joined the post even then the petitioner has not been permitted to continue on the post which was lying vacant with them. There is no stay order in favour of the petitioner and the petitioner is out of services since then.

No counter affidavit has been filed by the State. Learned Standing Counsel has submitted that the District Magistrate was not competent authority to appoint the petitioner as the post falls under the purview of Public Service Commission, as such, the order of appointment of the petitioner was absolutely without jurisdiction. Further the appointment letter, itself speaks that the appointment of the petitioner was for a short period, therefore, no illegality has been committed in passing the impugned order because the order of termination is simplicitor in nature and the order is not stigmatic. Learned Standing Counsel drew my attention to the appointment letter indicating therein that the order was passed subject to the approval of Director, Statistic & Agriculture but he did not accord approval to the appointment of the petitioner.

Since the authority which had issued appointment order to the petitioner was not the appointing authority and the order was passed subject to the approval of the Director, Statistics and Agriculture who did not accord his approval, further the

order being simplicitor in nature hence, in my opinion, this is not a case in which this Court could interfere under Article 226 of the Constitution of India.

Consequently, the writ petition is dismissed. No order as to costs.

(M.M. Ghildiyal, J.)

July 26, 2005:
NCM: